



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-520-807]

#### **Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Notice of Court Decision Not in Harmony with the Results of Antidumping Duty Administrative Review; Notice of Amended Final Results**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On December 8, 2022, the U.S. Court of International Trade (CIT) issued its final judgment in *Universal Tube and Plastic Indus., Ltd. v. United States*, Court no. 20-03944, sustaining the Department of Commerce (Commerce)’s remand results pertaining to the administrative review of the antidumping duty (AD) order on circular welded carbon-quality steel pipe (CWP) from the United Arab Emirates (UAE) covering the period December 1, 2017, through November 30, 2018. Commerce is notifying the public that the CIT’s final judgment is not in harmony with Commerce’s final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Universal Tube and Plastic Industries, Ltd. (UTP)/THL Tube and Pipe Industries LLC (THL)/KHK Scaffolding and Formwork LLC (KHK) (collectively, Universal).

**DATES:** Applicable December 18, 2022.

**FOR FURTHER INFORMATION CONTACT:** Benjamin A. Luberd, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2185.

## SUPPLEMENTARY INFORMATION:

### Background

On December 1, 2020, Commerce published its *Final Results* in the 2017-2018 AD administrative review of CWP from the UAE, in which Commerce calculated a weighted-average dumping margin of 3.79 percent for Universal.<sup>1</sup> After correcting ministerial errors contained in the *Final Results*, on January 5, 2021, Commerce published the *Amended Final Results* and revised the calculated weighted-average dumping margin for Universal to 3.63 percent.<sup>2</sup>

Universal appealed Commerce's *Final Results/Amended Final Results*. On July 15, 2022, the CIT remanded the *Final Results/Amended Final Results* to Commerce, holding that Commerce: (1) failed to demonstrate that its methodology to determine whether to grant a level of trade (LOT) adjustment and/or a constructed export price (CEP) offset achieved a "fair comparison" between CEP and normal value; and (2) failed to consider certain record evidence in its final finding that neither an LOT adjustment nor CEP offset was warranted for Universal.<sup>3</sup>

In its final remand redetermination, issued in October 2022, Commerce found that Universal made sales in the home market at two LOTs, and therefore an LOT adjustment was

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<sup>1</sup> See *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 77159, 77160 (December 1, 2020) (*Final Results*). In the less-than-fair-value investigation, Commerce found that UTP, Universal Tube and Pipe Industries, LLC, and KHK should be treated as a single entity. See *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Determination of Sales at Less Than Fair Value*, 81 FR 75030 (October 28, 2016). Further, in the 2016-2017 administrative review of this order, we determined that THL is the successor-in-interest to Universal Tube and Pipe Industries, LLC. See *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Final Results of Antidumping Duty Administrative Review; 2016-2017*, 84 FR 44845 (August 27, 2019). Absent information to the contrary, Commerce continued to treat Universal as a single entity for the purposes of the 2017-2018 administrative review of this order. See *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018*, 85 FR 7279, 7279 (n. 3) (February 7, 2020), and accompanying Preliminary Decision Memorandum (PDM), unchanged in *Final Results* and *Circular Welded Carbon-Quality Steel Pipe from the United Arab Emirates: Amended Final Results of Antidumping Duty Administrative Review*, 86 FR 289 (January 5, 2021) (*Amended Final Results*).

<sup>2</sup> See *Amended Final Results*.

<sup>3</sup> See *Universal Tube and Plastic Indus., Ltd. v. United States*, Court No. 20-03944, Slip Op. 22-83 (CIT July 15, 2022).

warranted for Universal when comparing its U.S. sales to home market sales made at a more advanced LOT.<sup>4</sup> The CIT sustained Commerce’s final redetermination.<sup>5</sup>

#### Timken Notice

In its decision in *Timken*,<sup>6</sup> as clarified by *Diamond Sawblades*,<sup>7</sup> the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s December 8, 2022, judgment constitutes a final decision of the CIT that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

#### Amended Final Results

Because there is now a final court judgment, Commerce is amending the calculated weighted-average dumping margin for Universal as follows:

<b>Exporter/Producer</b>	<b>Weighted-Average Dumping Margin (percent)</b>
Universal Tube and Plastic Industries, Ltd. (UTP)/THL Tube and Pipe Industries LLC (THL)/KHK Scaffolding and Formwork LLC	1.18

#### Cash Deposit Requirements

Because Universal has a superseding cash deposit rate, *i.e.*, there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

#### Liquidation of Suspended Entries

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<sup>4</sup> See “*Universal Tube and Plastic Indus., Ltd. v. United States*, Court No. 20-03944, Slip Op. 22-83 (CIT July 15, 2022) Final Results of Redetermination Pursuant to Court Remand,” issued on October 13, 2022.

<sup>5</sup> See *Universal Tube and Plastic Indus., Ltd. v. United States*, Court No. 20-03944, Slip Op. 22-139 (CIT December 8, 2022).

<sup>6</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>7</sup> See *Diamond Sawblades Mfrs. Coal. v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

At this time, Commerce remains enjoined by CIT order from liquidating entries that were produced and exported by Universal, and were entered, or withdrawn from warehouse, for consumption during the period December 1, 2017, through November 30, 2018. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise produced and exported by Universal in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*.<sup>8</sup> Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,<sup>8</sup> we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

#### Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: December 12, 2022.

Lisa W. Wang,  
Assistant Secretary  
for Enforcement and Compliance.

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<sup>8</sup> See 19 CFR 351.106(c)(2).